

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jonathan Wayne Harts, # 1335,)	
)	C/A No.: 8:06-3374-MBS
Plaintiff,)	
)	
vs.)	
)	O R D E R
Mr. Daughtery, Director; Scotty Bodiford,)	
Assistant Director; and Mrs. NFN Krein,)	
Head of Medical Services, all of)	
Greenville County Detention Center,)	
)	
Defendants.)	
)	

Plaintiff Jonathan Wayne Harts, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. At the time of the underlying events, Plaintiff was detained at the Greenville County Detention Center (GCDC) in Greenville, South Carolina. Plaintiff asserts that he was denied adequate medical care in violation of his constitutional rights.

This matter is before the court on Defendants' motion for summary judgment filed March 12, 2007. By order filed March 13, 2007, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. A copy of the Roseboro order was sent to Plaintiff at his last known address at 20 McGee Street, Greenville, South Carolina 29601. The envelope containing Plaintiff's copy of the Roseboro order was returned to the Office of the Clerk of Court on March 19, 2007, marked "RELEASED 3/14/07."

In accordance with 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. On April 11, 2007, the Magistrate Judge filed a

Report and Recommendation in which she recommended that the within action be dismissed for lack of prosecution and for violation of the court's December 6, 2006 order directing him to notify the court in writing if his address changed.

On April 11, 2007, the a copy of the Report and Recommendation was mailed to Plaintiff at his last known address at 20 McGee Street, Greenville, South Carolina 29601. The envelope containing Plaintiff's copy of the Report was returned to the Office of the Clerk of Court on April 18, 2007, marked "RELEASED 3/14/07."

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination of any portions of the Report of Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Plaintiff was advised by order filed December 6,2006 of his responsibility to notify the court *in writing* if his address changed. Plaintiff was informed that his case could be dismissed for failing to comply with the court's order. It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the court adopts the Magistrate Judge's recommendation that the case be dismissed pursuant to Fed. R. Civ. P. 41(b). The within action hereby is dismissed pursuant to Rule 41(b)

with prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

April 23, 2007

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.